ATTACHMENT A
Remarks

In response to the Office Action mailed on February 08, 2007, withdrawal of the rejections of the claims for the reasons discussed below is respectfully requested.

Claim Rejections – 35 U.S.C. 101

Claims 1 – 41 and 46 – 52 have been rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. This rejection is respectfully traversed, but claims 1, 35 and 46 have been amended to address the issue, and, thus, to expedite prosecution of the application.

Claim Rejections – 35 U.S.C. 112

Claims 1, 12, 18, 33, 35, 40, 42, 46 and 51 have been rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject mater which applicant regards as the invention.

Claims 1, 18, 35, 42 and 46 have been rejected because the phrase "substantially" is unclear.

Claim 12 has been rejected because it is unclear whether "hardware" is the "hardware unit" as in claim 11.

Claims 33, 40, and 51 have been rejected because the phrase "and the like" is said to render the claims indefinite.

All of these claims have been amended to address the issues raised and are now fully in accordance with the requirements of 35 U.S.C. 112, second paragraph.

Claim Rejections – 35 U.S.C. 102

Claims 1 – 30, 33 – 37, 39 – 42 and 44 – 52 have been rejected under 35 U.S.C. 102(b) as being anticipated by Cheng et al. (U.S. Patent No. 6,542,943) ("Cheng"). This rejection is respectfully traversed, although independent claims 1, 35 and 46 have each been amended to more clearly distinguish the claimed invention from the prior art. Claims 18, 38 and 49 have been canceled.

Claim 1 has been amended to included the subject matter of claim 18, and recites a method for downloading up to date versions of selected software and installing the software to a hardware unit, including, *inter alia*, associating a transaction identifier with selection data comprising a software selection, wherein the selection data is determined at the time of sale of the hardware unit.

It is alleged in the Office Action that "selection data being determined at the time of sale of the hardware unit" is disclosed in the Cheng reference at column 6, lines 38 – 44.

The cited passage is reproduced below:

> The result obtained by the system analyzer 907 from the product locator table 803 is a list 1013 of the installed software products on the client computer 101, each product identified by name and the installed version. The system analyzer 907 uses this list to query the service provider computer 102 to determine 205 for which of these products there is an applicable update.

The cited passage discloses analyzing a client computer that is already being used for a list of already installed software products on the computer in order to determine for which of these products there is an applicable update. It is respectfully submitted that this is not a teaching or suggestion of selection data comprising a software selection being determined at a time of sale of a hardware unit, as recited in claim 1.

Claims 2 – 17, 19 – 30, 33 and 34 depend from claim 1 and are allowable for at least the reasons provided in support of the allowability of claim 1. Further, it is respectfully submitted that many of the claims depending from claim 1 are also separately patentable.

For instance, claims 5 and 9 are directed to a download manager configured to launch in a boot sequence. It is alleged in the Office Action that the method of claim 5 is disclosed in column 13, line 30 of the Cheng reference, and that the method of claim 9 is "inherent" in Cheng. Column 13, line 30 of the Cheng reference merely discloses that "the client computer executes the client application in memory." It is respectfully submitted that the cited passage contains no teaching or suggestion of launching any program during a boot sequence, much less the download manager of claims 5 and 9.

Further, to the extent that the examiner is taking "Official Notice" that launching a download manager in a boot sequence is inherent in the Cheng reference, this finding is respectfully traversed. As discussed above, the system analyzer of the Cheng reference operates on a computer that is already in use. Therefore, Cheng actually teaches away from launching a download manager during a boot sequence, as recited in claims 5 and 9.

Additionally, dependent claims 10 and 17 are directed to a software selection that is predetermined. The Cheng reference, as discussed above, discloses analyzing a client computer for a list of already installed software products on the computer in order to determine for which of these products there is an applicable update. It is respectfully submitted that "analyzing to determine for which products there is an applicable update" is not the same as the "predetermined software selection" recited in claims 10 and 17, in that the latter is predetermined and thus, by definition requires no analysis of installed products.

Turning to independent claim 35, claim 35 has been amended to included the subject matter of claims 12 and 38, and recites a system wherein a first software handling machine is linked to a hardware unit by an external bus, and wherein a download manager executes in response to detecting that the hardware unit is linked to the first software handling machine by the external bus.

It is admitted in the Office Action that Cheng does not disclose linking a first software handling machine to a hardware unit by an external bus, but it is alleged that Apfel et al. (U.S. Patent No. 6,542,943) ("Apfel") teaches such an arrangement. Further, it alleged that Cheng teaches executing the download manager upon detecting a hardware unit on a communication link at column 13, lines 41 – 45.

The passage at column 13, lines 41 – 45 states:

> The client application 104 may be provided to the client computer 101 on a computer readable media, such as a CD-ROM, diskette, 8 mm tape, or by electronic communication over the network 106, for installation and execution thereon.

It is respectfully submitted that the cited passage of the Cheng reference has nothing to do with detecting a hardware unit on a communication link, and that the combination of Cheng and Apfel does not teach or suggest executing a download

manager upon detecting that a hardware unit is linked to a first software handling machine by an external bus, as recited in claim 35.

Claims 36, 37 and 39 – 41 depend from claim 35 and are allowable for at least the reasons provided in support of the allowability of claim 35.

Independent claim 42 recites a hardware unit including, *inter alia*, means to initiate a download manager during a boot sequence of the hardware unit. For the reasons discussed above with respect to claims 5 and 9, it is respectfully submitted that the Cheng reference does not teach or suggest the hardware unit as claimed in claim 42.

Claims 44 and 45 depend from claim 42 and are allowable for at least the reasons provided in support of the allowability of claim 42.

Independent claim 46 has been amended to include the subject matter of claim 49, and recites a program containing instructions operable to cause a programmable processor to, *inter alia*, cause a download manager to be preconfigured for downloading a predetermined software selection. It is respectfully submitted that, for the reasons discussed above with respect to claims 10 and 17, the Cheng reference does not teach or suggest the program recited in claim 46.

Claims 47, 48 and 50 – 52 depend from claim 46 and are allowable for at least the reasons provided in support of the allowability of claim 46.

Claim Rejections – 35 U.S.C. 103

Claims 31 and 32 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng. This rejection is respectfully traversed.

Claims 31 and 32 depend from claim 1 and are allowable for at least the reasons provided in support of the allowability of claim 1.

Claims 38 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Apfel et al. (U.S. Patent No. 6,542,943) ("Apfel"). This rejection is respectfully traversed.

As discussed above, Claim 35 has been amended to include the subject matter of claim 38. Thus, claim 38 has been canceled. The allowability of claim 35 over the combination of Cheng and Apfel is also discussed above.

Claims 43 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Moshir et al. (U.S. Patent No. 6,990,660) ("Moshir"). This rejection is respectfully traversed.

The references have been reviewed and since Moshir clearly does not make up the differences of Cheng as a reference against claim 42, claim 43, which depends from claim 42, is believed to be allowable over the combination for at least the reasons provided in support of the allowability of claim 42.

New Claims

New claim 53 has been added. New claim 53 depends from independent claim 35, and further recites an automated kiosk running a point of sale application. As discussed above with respect to claim 21, it is respectfully submitted that the point of sale application is neither taught nor suggested by the cited prior art. Therefore, the system of new claim 53 is separately patentable.

END REMARKS

Respectfully submitted,

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